

I ★ COMMERCIAL VESSEL REGULATIONS ★**FISHING VESSEL SAFETY REGULATIONS APPLY TO ALL FISHING VESSELS**

Several people have asked the question: Are vessels catching and selling fish, such as Atlantic Bluefin Tuna, Stripped Bass and the like, required to comply with the commercial fishing industry vessel safety regulations?

THE ANSWER IS YES!

The key to the answer is "**Selling**". A vessel engaged in selling "fish" (meaning finfish, mollusks, crustaceans, and all other forms of animal and plant life) is considered to be a fishing vessel, (meaning a vessel that commercially engages in the catching, taking, or harvesting of fish.) The Coast Guard considers even a vessel with a "sport" tuna license from National Marine Fisheries Service (NMFS) a commercial fishing vessel if the **intent** is to sell the catch.

Vessels which sell the catch, or a portion of the catch whether it be Atlantic Bluefin Tuna, Stripped Bass, Scup, Tataug, Winter Flounder, Lobsters, Clams, Mussels, Scallops, what ever, are considered to be "Commercial Fishing Vessels" and are subject to the fishing vessel safety regulations. In addition, a vessel, 5 Net tons or more engaged in commercial fishing, must be documented with the Coast Guard and the Certificate of Documentation must be endorsed for "Fishery".

Vessels carrying passengers for hire are regulated by other safety regulations: either sub-chapter "T" (small passenger vessels) or sub-chapter "C" (uninspected passenger vessels so called "six pack" boats). These vessels are not subject to the commercial fishing vessel safety regulations when operating as a passenger vessel. But, these vessels are required to meet the fishing vessel safety regulations at times when they are not carrying passengers and are commercial fishing—selling the catch.

These provisions may come as a surprise to vessels catching and selling Bluefin Tuna off the coast of New England during the summer months, or vessels fishing for scup in Buzzards Bay. Many vessels that normally think of themselves as pleasure vessels or "yachts" are now confronted with more stringent safety regulations.



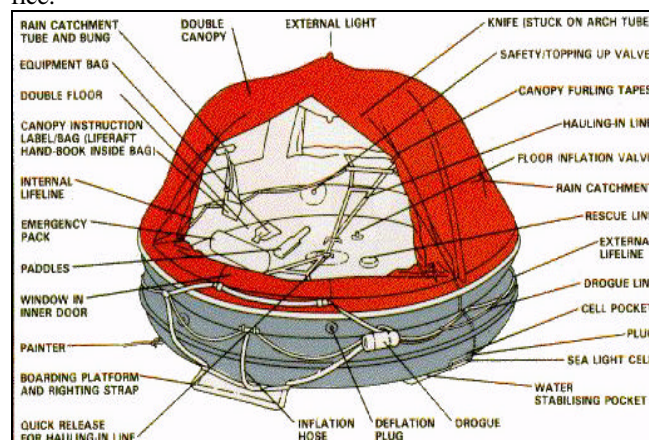
The fishing vessel safety regulations vary depending on several factors, including: (a) state numbered or documented with the Coast Guard, (b) the number of persons on board, (c) the area of operation, and (d) the season of the year.

If you don't have a copy of the new fishing vessel safety regulations or simplified pamphlet or if you have any questions about how to comply with the regulations please contact:

Ted Harrington or Bob Higgins
First Coast Guard District
Fishing Vessel Safety Coordinators
(617) 223-8444

SERVICING LIFERAFTS

All inflatable liferafts and buoyant apparatus must be serviced annually at a Coast Guard approved facility. The only exception is if inflatables are less than two years of age. Generally, approval is granted only to service specific brand name liferafts and the company may represent itself as a Coast Guard approved facility only for that make of raft. A listing of all Coast Guard approved facilities is available from your nearest Coast Guard Marine Safety Office.



A marking system indicating the service dates will be marked by the servicing facility. The U.S. Marine Safety Association has developed a coded decal that is placed on the raft container. It is color coded for each servicing year.

VOLUNTARY DOCKSIDE EXAM

The new Fishing Vessel Safety Initiatives have been in effect for several years, and it appears the vast majority of fishermen are aware that the requirements exist.

One comment still repeated is that the regulations are very complex and difficult to understand. Recognizing this the Coast Guard has initiated a voluntary dockside examination program specifically intended to help the average fisherman understand the new regulations and adapt the exam for his particular vessel.

Voluntary exams focus on education and are conducted in a non-adversarial manner. In other words, the Coast Guard person conducting the exam will only advise the owner of the requirements necessary to bring his vessel into compliance with the regulations. There is no penalty action taken for any deficiencies noted during the examination.

The Coast Guard representative will accommodate any request made for the voluntary dockside exam, at the owner's convenience. The examiner leaves the owner with a helpful packet of information, and does a walk-through of the vessel, informing the owner/operator of any changes necessary for the vessel to comply with the regulations.

The vessel does not have to comply fully while the examiner is on board the vessel. The Coast Guard representative will return to the vessel when the owner has had a chance to obtain the equipment pointed out by the examiner.

Any vessel that successfully completes a voluntary exam will be issued a sticker for the starboard pilothouse window. This tells a Coast Guard boarding team that the vessel has already complied with the regulations. If the vessel with a sticker is boarded, the boarding officer will limit his safety inspection to a spot check. This will save valuable time that could be better spent fishing.

There have been over 4,000 voluntary exam decals issued within the First District. The exam is free, and may save a vessel owner money, not to mention lives.

To request a voluntary dockside exam contact the nearest Coast Guard Marine Safety Office, or the District Fishing Vessel Safety Coordinator Ted Harrington at **(617) 223 8444**.

FISHING SAFETY UPDATE NEWSLETTER

A very informative newsletter dealing with fishing vessel safety and an explanation of some of the fine points of the Commercial Fishing Vessel Industry Safety Act is available on a quarterly basis from:

Commander (m)
First Coast Guard District
408 Atlantic Avenue
Boston, MA 02110-3350

IMPROPER USE OF SEARCHLIGHTS AND FLOODLIGHTS AT SEA

The Coast Guard has received reports that fishing vessels which use high intensity lights when setting and retrieving gear are routinely leaving them lit at all times when the vessel is underway. Although these lights may make a vessel easier to locate at great distances, improper use could interfere with the safe navigation of vessels. This may constitute a violation of the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGs) if the glare of such lights:

- Interferes with the night vision of mariners operating in the vicinity and the keeping of a proper lookout - **Rules 5 and 20** (proper lookout).
- Obscures the navigation lights of the vessel, making it difficult to determine a vessel's heading and type of operation - **Rule 20** (impair distinctive character of navigation lights).
- Makes it difficult for mariners to identify aids to navigation and their geographical location in the vicinity of the vessel using these lights - **Rule 36** (mistaken for any aid to navigation or embarrass another vessel).

Several reports indicated a vessel using sodium vapor floodlights was mistakenly reported as a vessel on fire, which resulted in a search and rescue response to a false alarm. The use of these high intensity lights may ultimately reduced the level of vigilance on the part of other mariners which could result in an actual distress situation not being reported or answered.

This notice does not prohibit a vessel from using any lights that cannot be mistaken for the lights specified in the 72 COLREGS. Mariners are cautioned that all types of high intensity lights when used at sea must be properly directed or adequately screened to ensure that under any conditions such lights will not embarrass another vessel, be misinterpreted, or illuminate beyond the immediate vicinity of

the vessel. When these lights are not being used for a specific task they should be extinguished.

DRUG AND ALCOHOL TESTING FOR COMMERCIAL VESSEL PERSONNEL

The U.S. Coast Guard has established minimum drug and alcohol testing requirements for the merchant marine industry. These regulations were developed as part of the Department of Transportation (DOT) program to address drug and alcohol use in the U.S. transportation system. The regulations developed by the U.S. Coast Guard set the minimum requirements for testing in the marine industry. Testing conducted under these regulations is limited to six dangerous drugs: marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP) and alcohol. All dangerous drug samples collected as part of these regulations must be analyzed at Substance Abuse and Mental Health Services Administration (SAMHSA, formerly NIDA) certified labs.

Certain crewmembers are subject to the regulations. If a license or Merchant Mariner's Document (MMD) is required by at least one person on the vessel, then at least some crewmembers may be subject to the regulations based upon their responsibilities on the vessel. Testing for drugs is conducted through urine samples, while testing for alcohol in the marine industry may be conducted using breath or blood. If blood is tested, only a qualified medical person may collect. Breath testing may be done by anyone trained to conduct such tests. All urine samples must be collected, handled, analyzed and results reported in accordance with specific requirements. These DOT-wide urine collection requirements are located at **Title 49, Code of Federal Regulations, Part 40**. The samples collected in order to meet the requirements of the U.S. Coast Guard rules may not be tested for any other drugs. If an employer wants to test for other drugs, samples must be collected and processed separately from samples used for DOT tests.

Any one or more of the following may from time-to-time be considered a marine employer: the owner of a vessel, the managing operator, the charterer, the agent, the master, or other person in charge. The marine employer is responsible for administering drug and alcohol testing programs for their employees. A crewmember who holds a license or MMD who refuses to provide a sample should be reported to the nearest Coast Guard Marine Safety/Inspection Office for possible actions against the license, or MMD for misconduct.

The regulations require five types of testing:

- **Pre-employment:** A crewmember must pass a drug test before an employer may employ him or her or give a

commitment of employment. A prospective crewmember that submits a urine sample cannot be employed until the results are known. Few exceptions apply.

- **Reasonable cause:** An employer shall require any crewmember that is reasonably suspected of using drugs to be tested for drugs.
- **Random:** An employer must conduct random drug testing of certain crewmembers at an annual rate of not less than 50%.
- **Post-Accident:** A person (not necessarily a crewmember) who is directly involved in a serious marine incident must be tested for drugs and alcohol.
- **Periodic:** Periodic tests are the responsibility of the individual mariner, not the marine employer. Whenever a person is required to have a physical examination under Coast Guard regulations, a drug test must be included. The results of those tests must be submitted to the Coast Guard Regional Exam Center at the time of the license or MMD transaction.

NOTE: Effective 24 March 1995, all applicants for the issuance or renewal of Licenses, Certificates of Registry, or Merchant Marine's Documents are required to pass a chemical test for dangerous drugs.

Any crew member who fails any required drug test must be removed from duties which directly affect the safe operation of the vessel as soon as practicable. They would also be denied employment in the case of a pre-employment test. This is until or unless the Medical Review Officer (MRO) determines that person is drug free and at low risk to return to drug use. This requirement applies to all persons who fail drug tests, whether or not they hold any license or MMD.

Marine employers must report positive tests to the Coast Guard for persons holding licenses or MMDs. Those personnel should expect revocation of their Coast Guard papers for drug use, and revocation or suspension of their Coast Guard papers for alcohol intoxication. A civil penalty of \$1000 can be assessed for intoxication (blood alcohol level greater than .04) on board a commercial vessel. There are also provisions for penalties of up to \$250,000 and imprisonment for one year.

Citations to the Code of Federal Regulations (CFR) where the Coast Guard and DOT drug testing regulations are located in:

- 33 CFR 95** Coast Guard - Operating a Vessel while Intoxicated
- 46 CFR 4.06** Coast Guard - Marine Casualties and post accident testing and when it is required
- 46 CFR 16** Coast Guard - Chemical Testing: types of testing required and procedures for the marine employer (when and who to test)
- 49 CFR 40** DOT - Procedures for Transportation Workplace Drug Testing Programs: procedures for all DOT - regulated drug testing, includes technical regulations for collection and testing.

THE PASSENGER VESSEL SAFETY ACT OF 1993



On 21 June 1994, the Passenger Vessel Safety Act of 1993 was implemented. The new law will increase safety requirements for chartered vessels. Chartered vessels carrying more than

12 passengers are most significantly affected. For more information on how the Passenger Vessel Safety Act affects the charter boat fleet, please contact your local Coast Guard Marine Safety Office or Inspection Office.



If you wish to obtain a copy of the **Navigation and Inspection circular 794** entitled "Guidance on the Passenger Vessel Safety Act of 1993", please contact:

Superintendent of Documents
Government Printing Office
(202) 783-3238

**FISHING VESSEL VOLUNTARY DOCKSIDE
EXAMINATION
CONTACTS**

